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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/765,930

01/29/2004

Shigetaka Kasuga

60188-761

1865

7590

02/19/2008

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EXAMINER

CUTLER, ALBERT H

ART UNIT

PAPER NUMBER

2622

MAIL DATE

DELIVERY MODE

02/19/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/765,930

Applicant(s)

KASUGA, SHIGETAKA

Examiner

Albert H. Cutler

Art Unit

2622

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL -324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Response to Arguments.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

DETAILED ACTION

1. This office action is responsive to communication filed on February 1, 2008.

Response to Arguments

2. Applicant's arguments filed February 1, 2008 have been fully considered but they are not persuasive. The status of the current claims remain as follows:

- a. Claims 10, 12, 13 and 15 are allowed
- b. Claims 1 and 16 are rejected
- c. Claims 2-6, 8, 11 and 14 are objected to

3. Applicant argues against the 35 USC 112 rejection made by the Examiner, stating that, "A patent need not teach, and preferably omits, what is well known in the art." MPEP § 2164.01. "Applicant may submit factual affidavits under 37 C.F.R 1.132 or cite references to show what one skill in the art knew at the time of filing the application." MPEP § 2164. 05. Applicants submit herewith three references which clearly illustrate that having a scanner comprising only N-type MOS transistors was known and used in conventional NMOS (which do not include an AD converter) solid state imaging devices. The Examiner is directed to Figure 3 of Reference 1 (WO2004/025732A1; Corresponding to US 2006/000736), for example. Additionally, the English abstracts and figures of References 2 (JP 2003-163586) and 3 (JP 2003-249848) disclose that a scanner using N-type MOS transistors alone was known in the art at the time of the invention. In view of this evidence, withdrawal of this rejection is respectfully requested."

4. The Examiner respectfully disagrees. The three references cited above were received and are acknowledged by the Examiner. However, these references fail to establish proof that using N-type MOS transistors alone as transistors in a scanner for selecting and reading a digital signal stored in a comparison/storage unit was known in the art at the time of the invention. Regarding Reference 1 (WO2004/025732A1), MPEP § 2164.05(a) states that, "Publications dated after the filing date providing information publicly first disclosed after the filing date generally cannot be used to show what was known at the time of filing. In re Gunn, 537 F.2d 1123, 1128, 190 USPQ 402,405-06 (CCPA 1976); In re Budnick, 537 F.2d 535, 538, 190 USPQ 422, 424 (CCPA 1976)." Therefore, because Reference 1 was published on March 25, 2004, it cannot be used to show that that the currently claimed N-type MOS scanner was known in the art at the time of the filing of the current invention on January 29, 2004, and Reference 1 is thus not considered by the Examiner.

5. Reference 2 (JP 2003-163586) teaches of providing a signal transmission circuit as a shift register, which can operate at a stable fashion even if it is used with a high-speed circuit power supply(Abstract). Apparently this circuit is taught in the abstract and figures. Applicant has not clearly and distinctly pointed out, and the Examiner has been unable to discern, where Reference 2 teaches using N-type MOS transistors alone as transistors in a scanner for selecting and reading a digital signal stored in a comparison/storage unit. Therefore, Reference 2 is inadequate to overcome the present rejection.

6. Reference 3 (JP 2003-249848) teaches of providing an activating method of a signal transmission circuit that can be activated with low voltage and low electric power consumption, used for a shift register for activating a liquid crystal display(Abstract). Apparently this circuit is taught in the abstract and figures. Applicant has not clearly and distinctly pointed out, and the Examiner has been unable to discern, where Reference 3 teaches using N-type MOS transistors alone as transistors in a scanner for selecting and reading a digital signal stored in a comparison/storage unit. Therefore, Reference 3 is inadequate to overcome the present rejection.
7. Because Applicant has not established proof that the scanner of the present invention uses N-type MOS transistors alone, or that such a scanner was known in the art at the time of the invention, the Examiner is maintaining the interpretation and rejection of claims 1 and 16 as disclosed in the final rejection filed on November 1, 2007. Namely, the Examiner upholds that because the current invention has not been shown to comprise a scanner having N-type MOS transistors alone, the N-type MOS transistor limitation is not all-encompassing of the individual circuit components listed in claim 1. Rather, the N-type MOS transistor limitation applies only to what one interprets to be the solid state imaging device of the listed components.
8. Therefore, the rejection of claim 1 under 35 USC 112, the rejection of claim 1 under 35 USC 102(b), and the rejection of claim 16 under 35 USC 103(a) are maintained by the Examiner.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Albert H. Cutler whose telephone number is (571)-270-1460. The examiner can normally be reached on Mon-Fri (7:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ngoc-Yen Vu can be reached on (571)-272-7320. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AC


NGOC-YEN VU
SUPERVISORY PATENT EXAMINER